

SECOND REGULAR SESSION

SENATE BILL NO. 985

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR FOSTER.

Pre-filed January 5, 2004, and ordered printed.

TERRY L. SPIELER, Secretary.

3554S.01I

AN ACT

To amend chapter 400, RSMo, by adding thereto three new sections relating to the uniform commercial code.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 400, RSMo, is amended by adding thereto three new sections, to be known as sections 400.7-103A, 400.9-102A, and 400.9-302A, to read as follows:

400.7-103A. (1) A security interest in crops is a production-money security interest to the extent that the crops are production-money crops.

(2) If the extent to which a security interest is a production-money security interest depends on the application of a payment to a particular obligation, the payment must be applied:

(a) in accordance with any reasonable method of application to which the parties agree;

(b) in the absence of the parties' agreement to a reasonable method, in accordance with any intention of the obligor manifested at or before the time of payment; or

(c) in the absence of an agreement to a reasonable method and a timely manifestation of the obligor's intention, in the following order:

(i) to obligations that are not secured; and

(ii) if more than one obligation is secured, to obligations secured by production-money security interests in the order in which those obligations were incurred.

(3) A production-money security interest does not lose its status as such, even if:

(a) the production-money crops also secure an obligation that is not a production-money obligation;

(b) collateral that is not production-money crops also secures the

production-money obligation; or

(c) the production-money obligation has been renewed, refinanced, or restructured.

(4) A secured party claiming a production-money security interest has the burden of establishing the extent to which the security interest is a production-money security interest.

400.9-102A. As used in this section, the following terms shall mean:

(1) "Production-money crops", crops that secure a production-money obligation incurred with respect to the production of those crops.

(2) "Production-money obligation", an obligation of an obligor incurred for new value given to enable the debtor to produce crops if the value is in fact used for the production of the crops.

(3) "Production of crops", tilling and otherwise preparing land for growing, planting, cultivating, fertilizing, irrigating, harvesting, and gathering crops and protecting them from damage or disease.

400.9-302A. (1) Except as otherwise provided in subsections (3), (4), and (5) of this section, if the requirements of subsection (2) are satisfied, a perfected production-money security interest in production-money crops has priority over a conflicting security interest in the same crops and, except as otherwise provided in section 400.9-327, also has priority in their identifiable proceeds.

(2) A production-money security interest has priority under subsection (1) if:

(a) the production-money security interest is perfected by filing when the production-money secured party first gives new value to enable the debtor to produce the crops;

(b) the production-money secured party sends an authenticated notification to the holder of the conflicting security interest not less than ten or more than thirty days before the production-money secured party first gives new value to enable the debtor to produce the crops if the holder had filed a financing statement covering the crops before the date of the filing made by the production-money secured party; and

(c) the notification states that the production-money secured party has or expects to acquire a production-money security interest in the debtor's crops and provides a description of the crops.

(3) Except as otherwise provided in subsection (4) or (5), if more than one security interest qualifies for priority in the same collateral under subsection (1), the security interests rank according to priority in time of filing under section 400.9-322(a).

(4) To the extent that a person holding a perfected security interest in production-money crops that are the subject of a production-money security interest gives new value to enable the debtor to produce the production-money crops and the value is in fact used for the production of the production-money crops, the security interests rank according to priority in time of filing under section 400.9-322(a).

(5) To the extent that a person holds both an agricultural lien and a production-money security interest in the same collateral securing the same obligations, the rules of priority applicable to agricultural liens govern priority.

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